

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 1ST DAY OF APRIL 1998

BEFORE

THE HON'BLE MR.JUSTICE H.N.NARAYAN

LRRP NO. 950 of 1990 c/w LRRP NO.504 of 1990

BETWEEN:

Hadapada Basappa s/o Mallappa,  
major, Occ:Agril., r/o Byloor  
village, Tq & Dist. Bellary.

Petitioner in  
LRRP No.950/90

( By Sri V.T.Raya Reddy, adv., )

Sri Chidanandappa s/o Doddappa  
Hadapad, major, r/o Byloor,  
Bellary Taluk.

Petitioner in  
LRRP No.504/90

( By Sri C.M.Desai, adv., )

AND:

LRRP NO.950/90

1. The State of Karnataka,  
by its Secretary (Revenue),  
Vidhana Soudha, M.S.Bldg.,  
Bangalore.
2. The Land Tribunal, Bellary,  
by its Secretary.
3. Sri Chidanandappa s/o Doddappa  
Hadapad, major, Occ:Agril.,  
r/o Byloor, Bellary Dist.

Respondents

( By Sri C.M.Desai, adv., for R-3; Sri Srinivasa Reddy,  
HCGP for R-1 and 2 )

LRRP NO.504/90

1. Sri Hadapad Basappa s/o Mallappa  
major, r/o Byloor village, Bellary  
Taluk.

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2. State of Karnataka by its Secretary, Revenue Department, Vidhanasoudha, Bangalore.
  3. Land Reforms Tribunal, Bellary, by its Chairman, Bellary Taluk.
  4. Mangala Inam represented by the Tahsildar, Bellary. Respondents
- ( By Sri V.T.Rayareddi, adv., for R-1 )

These LRRPs are filed u/s 121-A of the Karnataka Land Reforms Act against the order dated 18.10.89 passed in R.A.No.270/86 on the file of the Dist. Land Reforms Appellate Authority, Bellary, dismissing the appeal and confirming the order passed by the Land Tribunal, Bellary, in No.3098/77-78 & 2430/81-82 dated 31.10.81.

These LRRPs coming on for hearing this day, the Court made the following:-

ORDER

Both these revisions are directed against the order of the Appellate Authority, Bellary setting aside the order of the Land Tribunal and directing the Tahsildar, Bellary to resume the land to the Government under Section 44 of the Karnataka Land Reforms Act. The land in question is Survey No.86 measuring 4 acres 64 cents of Byloor Village in

Bellary Taluk. Two persons viz., Hadapada Basappa, the petitioner in LRRP No.950/90 and one Smt. K.Prabhavathy filed Form No.7<sup>and Form No.1 respectively</sup> before the Land Tribunal, claiming occupancy rights in respect of the said land. The Land Tribunal issued a public notice calling upon one Chidanandappa Hadapad who is the petitioner in LRRP No.504/90 to file his objections as his name finds a place in the RTC. During the course of the enquiry, the Tribunal recorded the statements of Hadapada Basappa and Chidanandappa wherein Hadapada Basappa claimed 2 acres 64 cents and Chidanandappa claimed 2 acres. ~~Accepting~~ these statements, the Tribunal granted occupancy rights as claimed by them. Not satisfied with this order, Hadapada Basappa, the petitioner in LRRP NO.950/90 filed a writ petition before this Court which was transferred to the file of the Appellate Authority, Bellary after the Constitution of the said Authority. When notice was issued to Chidanandappa, he made submissions before the Authority that a writ petition is pending before the High Court against the order of the Land Tribunal

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and that the application filed by him in Form No.1-A was also pending before the Tribunal. However, this submission was not accepted by the <sup>Authority.</sup> ~~Appellate~~ Certain peculiarities were noticed by the appellate authority in this case. Though it is a service inam land which is described as barber inam, the name of the inamdar is not at all mentioned by any one of the authorities. The Tribunal, while considering the application of Hadapada Basappa has granted occupancy rights in favour of Chidanandappa, the other petitioner eventhough there was no application for grant of occupancy rights. He subsequently made an application in the year 1986 claiming such right. This very fact shows that the Tribunal has clearly erred in granting occupancy rights in respect of 2 acres of land in favour of Chidanandappa.

2. In so far as the claim made by Hadapada Basappa, two sets of pahanis were produced before the appellate authority. One extract of RTC for the years 1964 to 1972 issued by the Tahsildar, Bellary shows the name of Chidanandappa in the cultivator's column.

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While Ex.A.4 produced by Hadapada Basappa, another extract of the RTC showing his name **for** the years 1972 to 1979 discloses that Hadapada Basappa again **come** in possession of the land from the year 1981. These are the strange ways of RTC in the Taluka Bellary contrary to the provisions of Sections 127, 128 and 129 of the Karnataka Land Revenue Act. The Appellate Authority is right to observe that the authorities including the Land Tribunal members and the Chairman must have danced to the tunes of some force behind the whole episode. Otherwise, the Tribunal would not have treated this case in the manner in which it has been done by granting certain land in favour of the person who has not applied for regnant. This is the sorry state of affairs prevailing in these Land Reforms Tribunals.

3. Sri V.T.Rayareddy, learned counsel for the petitioner <sup>in</sup> **L** LRRP No.950/90 has contended that the entries in the RTC discloses his name from 1973 just coming into force of the Land Reforms Act and

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there is oral evidence produced by him for examining 4 witnesses. Therefore, the oral evidence also supports the entries in the RTC. The appellate authority has not considered his evidence. Therefore, the order is liable to be set aside and the matter requires re-consideration in the hands of the Tribunal.

4. The Appellate Authority has no doubt considered two sets of RTC produced. The enquiry conducted by the Tribunal was very casual and the Tribunal has not considered these two sets of entries made in the pahanis. Learned counsel for the petitioner Sri Rayareddy has not explained as to how his client's name came to be entered for the first time in the cultivator's column of the RTC in respect of disputed land for the year 1972-73 without there being an enquiry and change of mutation. There is a cloud under which the claim is made. It is really for the parties to clear this doubt as to the nature of the entries found in the pahanis and it is for the Tribunal to consider who was <sup>actual</sup> in possession of the land. It is now stated by the learned counsel appearing for the petitioner in ~~LMP~~ No.504/90 viz.,

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Chidanandappa that the observations made by the Tribunal that his application was belated is incorrect as the State Government has extended <sup>the time</sup> to make applications upto 30.6.1987. Infact, the appellate authority has not noticed the subsequent ordinance issued by the State Government of Karnataka while considering the application of the petitioner. The Appellate Authority has set aside the order of the Land Tribunal which has granted 2 acres of land in favour of Chidanandappa as the same was challenged by Hadapada Basappa. Therefore, the contention raised that the authority has cancelled the grant without there being an appeal is incorrect. However, the whole matter requires re-consideration in the light of these facts. The revisions are therefore allowed. The Tribunal is directed to consider the claim of Hadapada Basappa and Chidanandappa having regard to the entries in the RTCs and other oral evidence.

Sd/-  
JUDGE

bkv/-